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ABSTRACT

Recommendations are made by the Illinois Council for Exceptional Children regarding minimal competency testing (MCT) for handicapped children. The position endorses the use of the individualized education program (IEP) as the most appropriate device to insure an appropriate education for handicapped children. Legal issues involving discrimination toward minority groups, tracking systems, and equal protection of the law are cited in the opposition to an Illinois law mandating MCT. Among the five recommendations are that a regular high school diploma should be awarded to each handicapped student who completes the prescribed special education program; MCT should not be the criteria for determining appropriate grade placement for handicapped children; and that MCT should be considered an option for handicapped children when appropriate. (CL)

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Competency Testing and the Exceptional Child

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Paper presented at the
Association for the Study of Perception
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Competency Testing and the Exceptional Child

Stanley L. Swartz, Ph.D.

Society expects a great deal from its public schools. Problems that seem to resist solution elsewhere are often relegated to the classroom. The schools are asked to be one of the primary instruments of social change. Our society has racial, economic and sexual inequalities so our schools are asked to bus children to desegregate, provide compensatory educational programs, neuter their textbooks and struggle with the implementation of Title IX. Parents cannot control their children so the schools are asked to strengthen their discipline. Juvenile crime increases and the schools are asked to crack down on offenders and provide alternative educational programming at the same time. If parents can't (or won't) parent, the schools are expected to fill the gap. Children are malnourished and the schools are asked to balance their diet. The list goes on and on because no problem is too large nor too small to deserve the attention of our public schools. To this list and not to be forgotten is the expectation that each child will receive a good education. But the schools cannot serve two masters. To both educate children and address a variety of social problems might be an unreasonable task.

Mandated Accountability

That the basic education of children might be faltering, regardless of the extra burdens placed on the schools as a causal factor, is a growing public sentiment. Much attention has been given to reports in the news

media that children are graduating from high school unable to read and write. The public has demanded accountability from the schools and legislatures across the country are responding with a mandate for one form or another of competency testing. 'Minimal competency testing' is a procedure to insure that each child who is promoted or graduated has at least rudimentary skills in the areas of reading, writing, computation and life survival skills. The ability to pass such a test is a modicum of assurance that each child has received a good education.

Another Mandate

But as local school districts develop policies to comply with competency testing requirements another mandate has moved services for handicapped children to center stage. Special Education has come of age in the form of P.L. 94-142 (The Education of All Handicapped Children Act). This law, considered long overdue by many, makes five major guarantees to our more than 8 million handicapped children:

1. Zero reject - no handicapped child, regardless of the severity of his handicapping condition, may be excluded from a free and appropriate public education.
2. Nondiscriminatory and multifactored evaluation - in order to assure that placement and service is appropriate, each handicapped child must receive a fair educational assessment.
3. Appropriate education - each child is guaranteed an education that is appropriate and meaningful to him and one that is in keeping with the limitations of his handicapping condition.

4. Least restrictive environment - a handicapped child must be educated in a setting that will most facilitate his learning and cannot be excluded unless his handicap would preclude benefitting from such a placement.
5. Procedural due process - each handicapped child, or his representative, has the right to object to the placement or program provided by the school. Conversely, the school system has the right, and the obligation, to object to the arbitrary refusal of educational services by the child or parents.

The law also extends school responsibility to include all manner of related services (e.g., psychological, medical, prosthetic, etc.) that a handicapped child might need to benefit to the maximum extent possible from his education, (Swartz, 1978).

Individualized Educational Program (IEP)

Special educators and parents of handicapped children were concerned that a method of monitoring the handicapped child's program be built into the law. To this end the law specifies a very meticulous method to plan, implement, and monitor each child's program called the Individualized Educational Program (IEP). This IEP must:

1. Be written.
2. Describe the child's present level of educational functioning.
3. State annual goals.
4. State short term instructional goals.
5. Describe specific educational services to be provided.

6. Describe the extent of the child's ability to participate in regular educational programs.
7. Determine the starting date of the child's program.
8. Anticipate the duration of the services.
9. Select appropriate objective criteria and evaluation procedures to determine whether instructional objectives are being achieved.
10. Determine the schedule for evaluating progress, at least annually.

Competency Testing vs. IEP

Special educators feel that minimal competency testing, indiscriminately applied, would constitute an undue hardship for handicapped children. Though minimal competency testing might, to some extent, insure particular skill levels it is felt that very little real progress will be made toward a quality education. The IEP is designed to provide a maximum educational experience and is consistent with efforts determined to provide an appropriate education for handicapped children.

A Position

Because Illinois public school districts have been mandated to develop a minimal competency testing policy by 1980, the Illinois Council for Exceptional Children commissioned a study on competency testing and the handicapped to generate recommendations that could be used by local districts in developing their policy.

Based on an extensive literature review and the current perspective of the National Council for Exceptional Children, the I.C.E.C. Ad Hoc Committee on Minimal Competency Testing for Handicapped Children* made the following recommendations (Swartz and Graham, 1979):

1. The Individual Educational Program should be used as the determiner of competencies for handicapped children. It is believed that both the I.E.P. and the minimal competency test have a similar intent, to insure quality educational opportunity for public school children. It is also believed that the I.E.P. is the appropriate measure for the handicapped child.

2. Minimal competency testing should be considered an option for handicapped children when appropriate. When the handicapped child's academic success is such that taking the minimal competency test is appropriate, this should be established as a goal on the child's I.E.P. Under no circumstances should minimal competency testing become mandatory for handicapped children but rather be selected as an option on an individual basis.

*Committee members: Stanley L. Swartz, Lesley Graham, Karen Brown, Rori Carson, Larry DeLong, H. James Kelly and Roger Lehr.

3. Minimal competency testing must be nondiscriminatory to handicapped children. Appropriate modifications in test administration must be made to accomodate each child's handicapping condition.

4. Minimal competency testing should not be the criteria for determining appropriate grade placement for handicapped children. Program decisions for the handicapped must be made on the basis of individually determined needs.

5. A regular high school diploma should be awarded to each handicapped child who completes the prescribed special education program. It is believed that only a regular diploma would be consistent with the spirit of federal and state laws regarding the handicapped.

The Delegate Assembly of the Illinois Council for Exceptional Children meeting in Zion, Illinois on May 12, 1979 endorsed the committee recommendations as their official position and directed its dissemination to all appropriate education officials in the State of Illinois.

Legal Considerations

The I.C.E.C. position is not without legal base. Though responsibility for education is delegated to the states, under the U.S. Constitution the federal government can enact laws that take precedence over state laws.

P.L. 94-142 and Section 504 of the Rehabilitation Act of 1973 are two such laws. Both of these laws have non-discriminatory clauses with respect to placement practices, and access to regular programs and services for handicapped children. If minimal competency testing is used to determine grade placement, promotion and graduation this could prove discriminatory to students disadvantaged by a handicapping condition. Handicapped children could be excluded from programs because of their inability to pass minimal competency tests.

Civil rights regulations have been carefully drafted to protect the rights of minority groups. Using the regulations drafted by federal agencies as a guideline, it is increasingly clear that the handicapped are considered a minority group and need protection from past discriminatory practices. As a case in point, in McNeal v. Tate Co. School District, 508 Federal 2d 1017 (5th Cir. 1975) in S.L.B. June 1976 the Appeals Court overturned the district court and disallowed a testing program that could cause further segregation of students by either race or intelligence. Also the landmark case of Diana v. State Board of Education of California C.A. No. 3-379 RFP (N.D. Cal. Jan. 7, 1970 and June 18, 1973) safeguarded the rights of minority students from being placed into programs for the retarded on the basis of a single test. Minimal competency testing cannot be construed as a multi-factored evaluation which is prescribed in P.L. 94-142.

If minimal competency testing is to be used for grade placement and promotion the end result could be the emergence of tracking programs. Students could be eliminated or 'counseled' into programs that would not include the necessary courses, requirements and programs leading to a high school diploma. Tracking systems for placement of minority and poor students was successfully litigated in Hobson v. Hanson, 369 F. Supp. 401, 514

(DDC 1967) by application of the equal protection clause and (by implication) rights to education clauses under the 14th amendment. Any testing, including minimal competency testing, that tracked students into different programs or that caused them to receive different educational benefits would appear to be illegal under this precedent.

In Mahavongsanan v. Hall, 529 F. 2d 488 (5th Cir., 1976) 401 F. Supp. 381 (1976) 531 F. 2d 575 (1976) in S.L.B. June 1976, the questions of timely notice and the diploma as a valuable property right were considered substantive issues by the court and grounds for retribution. The implications of this decision for handicapped students is that arguments can be advanced that address the issue of timeliness in implementation of any test and more specifically competency-based tests as a graduation requirement. Also, advocates for the handicapped could argue that the possible deprivation of a diploma as a result of failure to perform to standard on a competency test could be grounds for a writ of relief in that a valuable property right (diploma) was denied without equal protection of the law.

Conclusion

The public schools are presently under close scrutiny to insure that each child acquires at least basic academic and life survival skills. 'Minimal competency testing' is being adopted by many school districts to insure that this objective is met. It is hoped that the I.C.E.C. position on competency testing can be incorporated as an integral part of local district policy. The position endorses the use of the Individualized Education Program as the most appropriate device to insure an appropriate education for handicapped children.

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